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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/633,507	08/07/2000	John Zahorjan	960296.97354	3647

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EXAMINER

SRIVASTAVA, VIVEK

ART UNIT PAPER NUMBER

2617

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/633,507

Applicant(s)

ZAHORJAN ET AL.

Examiner

Vivek Srivastava

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8 and 17 is/are allowed.
- 6) ☐ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 9-16, 18 and 19 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

(1) Applicant argues that Golubchik fails to teach the limitation that the composite of the first transmission and data of the target transmission is not time-distorted. Moreover Applicants argue that Golubchik teaches against this limitation, as Golubchik's method of merging two streams involves adding additional frames to a stream or removing frames from a stream.

The Examiner respectfully disagrees with Applicant's assertion. Although the Examiner does concur that the adding and deletion of frames would effect the time, Applicant's have not defined how the transmissions are 'not time-distorted'. In other words, the claims fail to recite the meaning of time-distortion. As a result, the Examiner maintains the rejection and respectfully submits that applicant's arguments are not persuasive.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by by the article on Reducing I/O demand in Video-On-Demand Storage Servers (cite by Applicant) hereinafter “article”.***

Regarding claim 1, the Article discloses a system and method of VOD piggybacking. The Article teaches merging two VOD streams, the “target transmission” stream is the initial stream transmitted. The claimed “scheduling a first transmission of a program in response to a client request by a client, wherein the program has a playback rate” is met by the service a second request by a client for the same video (see page 28 paragraphs 2 and 3 on the left). Since there is no change or alteration in the initial or target transmission, the Article discloses the claimed “absent a change in the target transmission”. The Article further discloses receiving a composite of the target transmission and the first transmission (see page 28 paragraphs 2 and 3 and page 29 fig. 4 and the paragraph following, noting the composite as streams I and J). It should be noted that each stream is transmitted in real time, i.e., at the time of request and is not “time distorted”. The Article still further discloses merging the two streams is possible by altering the display and transmission rates by adding or removing from (see page 27 the 4<sup>th</sup> and 5<sup>th</sup> paragraphs on the left). The target stream will have a transmission rate (playback rate) of 30 frames/sec and the first stream will have a display rate of 30 x 11/10 (adding a frame for every 10). It should be noted that the

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composite data rate, for both streams is "non-integer multiple" of the playback rate  $[(30 + 30 \times 11/10)$  or the composite is a non-integer multiple of the playback rate 30)].

### ***Allowable Subject Matter***

Claims 2-8 and 17 are allowed.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (571) 272-7304. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs  
5/27/05

  
VIVEK SRIVASTAVA  
PRIMARY EXAMINER